HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
HON'BLE SHRI V.K. SHRIVASTAVA, J.

M.A. No.1010 OF 2006

APPELLANT		Tekram Patel S/o. Udaichand Patel Aged about 65 years Retired – Teacher presently Agriculturist, R/o. Village Salhepali, P.S. Pussore, Tehsil & District Raigarh (C.G.)
		Versus
RESPONDENTS	1.	Fani Bhushan Singh @ Babulal Nayak, S/o Not known Aged about 66 years, occupation – Agriculturist, R/o. Vill. Marghati P.O. Marghati, Tahsil and P.S. Dhabra, District – Janjgir-Champa (C.G.)
	2.	Purnima, W/o. Tilakram R/o. Temtema, Tahsil Kharsiya District Raigarh (C.G.)

Present : Ms. Deepali Pandey, learned counsel for the appellant.

ORAL ORDER
(Passed on 8th November, 2006)

The following oral order of the Court was passed by

V.K.SHRIVASTAVA, J.

This appeal under Section 19 of the Family Courts Act 1984 has been directed against the order dated 11-8-2006 passed by Judge Family Court, Raigarh in M.Cr.C No.7/05 by which the application for custody of minor grand-daughter Prema filed by the appellant has been rejected.

(2) The case of the appellant, in brief, is that respondent No.2 Purnima, was the widow of Gokul Prasad, son of the appellant herein. Prema is the daughter of Purnima and Gokul Prasad. Gokul Prasad died in the month of March, 1993. Purnima, mother of Prema, has re-married and at present

Prema is living along with her mother and her step-father. It is stated that the welfare of minor is adversely affected by keeping her with her mother and step-father therefore appellant who is grandfather of the child has filed the application under Section 25 of the Guardian and Wards Act 1890 for declaration of guardianship in his favour and to allow custody of the minor child Prema.

(3) Learned trial Court has very elaborately considered all the facts and also considered the wish of the minor child Prema and particularly considered the fact that she is living along with her mother and step-father, they are keeping her well where she is also studying and getting love and affection from her mother, step-father and step-brothers.

(4) Minor child "Prema" is about 15 years old. She is old enough to form an intelligent preference and the Court is bound to consider her preference. Prema has in Lower Court made a statement that she is living with her mother and step-father happily. She is also taking education there. Her mother, father and brothers give her love and affection. Apparently, she is living with her natural mother, who is taking proper care of her and evidently her welfare appears to be in custody of her mother and step father.

(5) We do not find any illegality or infirmity in the order passed by the Judge Family Court and, therefore, the appeal is liable to be dismissed and it is accordingly dismissed. Parties to bear their own costs.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge